

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8802 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgement?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

NATVARLAL HIRJIBHAI VAGHELA

Versus

UNION OF INDIA

Appearance:

MR NM KAPADIA for Petitioner
MR BIPIN I MEHTA for Respondent No. 1
MR PK SHUKLA, ld.AGP for Respondent No. 2

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 04/05/2000

ORAL JUDGEMENT

The petitioner has come with the case that while he was working as Principal of Municipal School No.11, Jamalpur, Ahmedabad, in the year 1942, he was dismissed from service on 28th December 1942 by the resolution

No.137 of the School Board dated 28th December 1942. On 17th May 1946, the School Board cancelled the earlier resolution with regard to the petitioner's dismissal from service and the petitioner was treated as on duty without payment of wages and allowances for the interregnum period. The petitioner's case is that he took part in the Quit India Movement in the year 1942 and it was for that reason that he was dismissed from service by the School Board. It has also been stated that the petitioner has no issue and has an adopted son who is infact, son of his daughter. The petitioner has submitted that in the year 1974 and again in the year 1996, the petitioner had applied for pension to the Central Government, but no such pension had been granted. While it has been submitted that the State Government had passed an order on 4th August 1998 and granted pension to the petitioner from the discretionary fund of the Government and such pension was granted from 1.8.1998 till the Central Government grants the pension. The petitioner has made reference to a communication dated 29th August 1998 addressed by the Accounts Officer (Pension), Office of the Director of Pension & Provident Fund, Khanpur, Ahmedabad, directing the Pension Payment Officer to make payment of pension to the petitioner with effect from 1.8.1998 and it has been stated that in this communication, a reference has been made to the order dated 4th August 1998 granting pension to the petitioner. The petitioner has also stated that in the year 1974, the Central Government had declined his request to grant pension on the ground that his annual income exceeds the stipulated income limit. However, he applied again on 18th April 1996 to the Under Secretary, Govt. of India, Ministry of Home Affairs, New Delhi for the pension. It has been stated that he is 80 years old man by now. The direction has been sought against the respondent no.1 Union of India to grant Swatantra Senani Samman (SSS) Pension from the date of his entitlement with penal interest from the date of entitlement till the date of payment of arrears and has also claimed interest, costs and compensation and even penal interest.

2. This petition dated 28th October 1999 was filed in this Court on 3rd November 1999 and on 4th November 1999, the notice was issued and thereafter the Rule was issued on 10th April 2000. It is admitted before this Court that the petitioner is getting pension of Rs.1,500/- per month from 1.8.1998 and it has been submitted that in case the Central Government grants the pension, it will come to Rs.3,000/- per month. On behalf of the respondent no.1, Mr.Bipin Mehta has produced before this Court a letter dated 20th April 2000 sent by

the Under Secretary to Govt. of India, Ministry of Home Affairs, wherein it has been stated that the Ministry had taken decision to sanction SSS Pension to the petitioner and the petitioner had been asked on 28th February 2000 to furnish his identification documents and that the required documents are still awaited from him. Copy of this letter shall remain record.

3. Whereas it is clear from this letter dated 20th April 2000 that the Government has already taken a decision to sanction the SSS Pension to the petitioner subject to the production of the identification documents by the petitioner, it will meet the ends of justice if it is directed in this petition that, should the petitioner produce the identification documents before the concerned authority, the concerned authority shall pass appropriate orders granting SSS Pension to the petitioner from the due date and shall also consider the question with regard to the effective date from which the petitioner gets pension, i.e. the date on which he applied for such pension on 18th April 1996 and interest thereon in the light of the directions as were made by this Court in Special Civil Application No. 1727 of 1999 decided on 19th July 1999. The petitioner while producing his identification documents before the concerned authority, shall also produce before such authority, a certified copy of this order along with the certified copy of the order dated 19th July 1999 passed in Special Civil Application No.1727 of 1999. On production of such documents and the orders as referred to above, the concerned authority shall pass appropriate orders within a period of one month thereafter and once the orders granting pension are passed by the Central Government, it will be open for the State Government to pass appropriate orders with regard to the pension paid to the petitioner by it but that will depend upon the lines on which the order that may be passed by the Central Government because the pension payable by State is only till the pension is paid by Central Govt. This Special Civil Application is accordingly allowed. Rule is made absolute. Direct service is permitted.

(M.R. Calla, J.)

Sreeram.